

§ 144.1

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AUTHORITY: 10 U.S.C. 982.

SOURCE: 71 FR 76917, Dec. 22, 2006, unless otherwise noted.

§ 144.1 Purpose.

This part implements 10 U.S.C. 982 to establish uniform DoD policies for jury service by members of the Armed Forces on active duty.

§ 144.2 Applicability.

The provisions of this part apply to active-duty members of the Armed Forces.

§ 144.3 Definitions.

(a) *Armed Forces*. The Army, the Navy, the Air Force, the Marine Corps.

(b) *State*. Includes the 50 United States, U.S. Territories, District of Columbia, and the Commonwealth of Puerto Rico.

(c) *Active Duty*. Full-time duty in the active Military Service of the United States; Includes full-time training duty, annual training duty, active duty for training, and attendance, while in the active Military Service, at a school designated as a Service school by law or by the Secretary of the Military Department concerned.

(d) *Operating Forces*. Those forces whose primary missions are to participate in combat and the integral supporting elements thereof.

§ 144.4 Policy.

It is DoD policy to permit members of the Armed Forces to maximally fulfill their civic responsibilities consistent with their military duties. For Service members stationed in the United States, serving on a State or local jury is one such civic obligation. Service members are exempt from jury duty, when it unreasonably would interfere with performance of their military duties or adversely affect the readiness of a unit, command, or activity.

§ 144.5 Responsibilities.

The Secretaries of the Military Departments, or designees, in accordance with regulations prescribed by the Sec-

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retary concerned, shall determine whether Service members shall be exempt from jury duty. This authority may be delegated no lower than to commanders authorized to convene special courts-martial.

§ 144.6 Procedures.

The Secretaries of the Military Departments shall publish procedures that provide the following:

(a) When a Service member on active duty is summoned to perform State or local jury duty, the Secretary concerned, or the official to whom such authority has been delegated, shall decide if such jury duty would:

(1) Interfere unreasonably with the performance of the Service members military duties.

(2) Affect adversely the readiness of the unit, command, or activity to which the member is assigned.

(b) If such jury service would interfere with the Service member's military duties or adversely affect readiness, the Service member shall be exempted from jury duty. The decision of the Secretary concerned, or the official to whom such authority has been delegated, shall be conclusive.

(c) All general and flag officers, commanding officers, and all personnel assigned to the operating forces, in a training status, or stationed outside the United States are exempt from serving on a State or local jury. Such jury service necessarily would interfere unreasonably with the performance of military duties by these members and adversely affect the readiness of the unit, command, or activity to which they are assigned.

(d) Service members who serve on State or local juries shall not be charged leave or lose any pay or entitlements during the period of service. All fees accrued to members for jury service are payable to the U.S. Treasury. Members are entitled to any reimbursement from the State or local jury authority for expenses incurred in the performance of jury duty, such as for transportation costs or parking fees.

(e) Written notice of each exemption determination shall be provided to the responsible State or local official who summoned an exempt member for jury duty.

**PART 145—COOPERATION WITH
THE OFFICE OF SPECIAL COUN-
SEL OF THE MERIT SYSTEMS PRO-
TECTION BOARD**

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**APPENDIX TO PART 145—LEGAL REPRESENTA-
TION**

AUTHORITY: 5 U.S.C. 301; 10 U.S.C. 133.

SOURCE: 51 FR 17178, May 9, 1986, unless otherwise noted.

§ 145.1 Purpose.

This part establishes policy, assigns responsibilities, and prescribes procedures for cooperation with the Office of Special Counsel (OSC) of the Merit Systems Protection Board (MSPB) in fulfilling the responsibilities of the Special Counsel under Pub. L. 95-454 and 5 CFR 1201 and 1250 to conduct investigations of alleged prohibited personnel practices and to ensure the investigation of other allegations of improper or illegal conduct referred to the Department of Defense by the OSC. This part provides internal guidance to DoD officials, and does not establish an independent basis for any person or organization to assert a right, benefit, or privilege.

§ 145.2 Applicability and scope.

(a) This part applies to the Office of the Secretary of Defense (OSD), the Military Departments, the Office of the Joint Chiefs of Staff (OJCS), the Inspector General, Department of Defense (IG, DoD) and the Defense Agencies (hereafter referred to collectively "as DoD Components").

(b) The provisions of this part that relate to prohibited personnel practices do not apply to the Defense Intelligence Agency (DIA) or the National Security Agency (NSA), as prescribed by 5 U.S.C. 2302(a)(2)(C)(ii.).

(c) This part does not restrict the IG, DoD, in coordinating investigative efforts on individual cases with the OSC where concurrent jurisdiction exists.

§ 145.3 Definitions.

Improper or illegal conduct. (a) A violation of any law, rule, or regulation in connection with Government misconduct; or

(b) Mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

Office of the Secretary of Defense (OSD). (a) The immediate offices of the Secretary, the Deputy Secretary, the Assistant Secretaries, Assistants to the Secretary, and other officials serving the Secretary of Defense directly.

(b) The field activities of the Secretary of Defense.

(c) The Organization of the Joint Chiefs of Staff.

(d) The Unified and Specified Commands.

Personnel action. (a) An appointment.

(b) A promotion.

(c) An adverse action under 5 U.S.C. 7501 *et seq.* or other disciplinary or corrective action.

(d) A detail, transfer, or reassignment.

(e) A reinstatement.

(f) A restoration.

(g) A reemployment.

(h) A performance evaluation under 5 U.S.C. 4301 *et seq.*

(i) A decision concerning pay, benefits, or awards, or concerning education or training if the education or training may reasonably be expected to lead to an appointment, promotion, performance evaluation, or other personnel action.

(j) Any other significant change in duties or responsibilities that is inconsistent with the employee's salary or grade level.

Prohibited personnel practice. Action taken by an employee who has authority to take, direct others to take, recommend, or approve any personnel action:

(a) That discriminates for or against any employee or applicant for employment on the basis of race, color, religion, sex, national origin, age, handicapping condition, marital status, or political affiliation, as prohibited by certain specified laws (see 5 U.S.C. 2302(b)(1)).

(b) To solicit or consider any recommendation or statement, oral or